

AMENDED IN ASSEMBLY AUGUST 25, 2000

AMENDED IN ASSEMBLY JUNE 27, 2000

AMENDED IN SENATE MAY 3, 2000

AMENDED IN SENATE APRIL 11, 2000

AMENDED IN SENATE MARCH 30, 2000

SENATE BILL

No. 1641

Introduced by Senator Bowen

February 22, 2000

An act to add Sections ~~1473, 2329.1, and 2620.1~~ *1473 and 2329.1* to the Probate Code, relating to guardianship and conservatorship.

LEGISLATIVE COUNSEL'S DIGEST

SB 1641, as amended, Bowen. Guardians and conservators.

Existing law sets forth various requirements governing guardianship and conservatorship, as specified.

~~This bill would set forth specific requirements governing probate guardianships and conservatorships in which the guardian or conservator is a family member or blood relative.~~

This bill would ~~also~~ require the court, *where the guardian or conservator is a family member or blood relative of the ward or conservatee*, if the value of the estate of a ward or conservatee exceeds \$20,000, to appoint legal counsel to represent the ward or conservatee, unless the court finds and states on the record that the appointment of legal counsel is

not necessary to be compensated by the estate at a rate determined by the court. The bill would also require the Judicial Council to make a cost-of-living adjustment to the above amount in the valuation of the estate, as specified, and to post these adjusted amounts on the official web site of the Judicial Council.

This bill would also provide that the bond required prior to issuance of letters in guardianship or conservatorship proceedings shall not be reduced below a specified amount in cases where the guardian or conservator is a family member or blood relative.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1473 is added to the Probate
2 Code, to read:
3 1473. (a) Notwithstanding any other provision of
4 law, *where the guardian or conservator is a family*
5 *member or blood relative of the ward or conservatee*, if
6 the guardian or conservator of the estate of a ward or
7 conservatee fails to file an accounting required under
8 Section ~~2620.1~~ 2620 within 90 days of the date the filing
9 is due, the court shall determine the value of the estate.
10 If the estate is determined to exceed twenty thousand
11 dollars (\$20,000) in value, the court shall appoint legal
12 counsel to represent the ward or conservatee, to be
13 compensated from the estate as determined by the court,
14 unless the court finds and states on the record that
15 appointment of legal counsel is not necessary to protect
16 the interest of the estate of the ward or conservatee. On
17 and after January 1, 2002, this amount shall be annually
18 adjusted by the percentage change in the Bureau of
19 Labor Statistics Consumer Price Index for All Urban
20 Consumers (CPI-U) for the United States city average for
21 all items, with a base period of 1982 to 1984, inclusive. The
22 Judicial Council shall calculate the adjusted figure and
23 shall round the figure to the nearest whole dollar. These

1 annual fee adjustments shall be posted on the official
2 public web site of the Judicial Council.

3 *(b) For the purposes of this section, the term “family*
4 *member or blood relative” means an individual related*
5 *by affinity or consanguinity within the third degree as*
6 *determined by common law, or an individual in a step or*
7 *adoptive relationship within the third degree.*

8 SEC. 2. Section 2329.1 is added to the Probate Code,
9 to read:

10 2329.1. (a) Notwithstanding Section 2329 or any
11 other provision of law, where the guardian or conservator
12 is a family member or blood relative as defined in
13 subdivision (b) of Section 2620.1, the amount of the bond
14 shall not be reduced below the amount determined
15 pursuant to Section 2320. If the actual value of the estate
16 subject to this subdivision is unknown at the time of
17 appointment of the guardian or conservator, the court
18 shall adjust the amount of the bond within 60 days of filing
19 of the inventory of the estate conducted under Section
20 2610. Funds belonging to the estate under Section 2328
21 shall be excluded from the value of the estate as
22 determined under Section 2320.

23 *(b) For the purposes of this section, the term “family*
24 *member or blood relative” means an individual related*
25 *by affinity or consanguinity within the third degree as*
26 *determined by common law, or an individual in a step or*
27 *adoptive relationship within the third degree.*

28 ~~SEC. 3. Section 2620.1 is added to the Probate Code,~~
29 ~~to read:~~

30 ~~2620.1. (a) Notwithstanding subdivision (a) of~~
31 ~~Section 2620, if the guardian or conservator is a family~~
32 ~~member or blood relative of the ward or conservatee, at~~
33 ~~the expiration of one year from the time of appointment,~~
34 ~~and thereafter not less frequently than annually, unless~~
35 ~~otherwise ordered by the court, the guardian or~~
36 ~~conservator shall present the account of the guardian or~~
37 ~~conservator to the court for settlement and allowance in~~
38 ~~the manner provided in Chapter 4 (commencing with~~
39 ~~Section 1060) of Part 1 of Division 3.~~

1 ~~(b) For purposes of this section, the term “family~~
2 ~~member or blood relative” means an individual related~~
3 ~~by affinity or consanguinity within the third degree as~~
4 ~~determined by common law, or an individual in a step or~~
5 ~~adoptive relationship within the third degree.~~

